

In Memoriam

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Those who knew Fred Zacharias from a distance, or only from his work, might think that his outstanding quality was his intelligence. I think they would be mistaken. It's true that Fred was a very intelligent fellow and a prolific scholar. But I really don't believe those achievements were central to who Fred was; in fact, I don't think they ultimately mattered very much to him.

Instead, I would point to two other things that characterized Fred for me. One was his honesty. Fred was always forthright, and he could not abide any shading or bending of the truth, or even any slanted selectivity in presenting the truth, even in behalf of causes or candidates he supported. His integrity—his relentless integrity—was evident, sometimes inconveniently so, to anyone who worked with him.

Fred's other outstanding quality was maybe not as readily apparent, even to colleagues who knew him casually: Fred was compassionate. As a political matter he favored a politics of compassion, but unlike some people whose compassion is wholly deployed at the political level, Fred was locally and personally compassionate as well. He worried about individual students and about secretaries. When a member of the staff suffered some setbacks, it was Fred who organized an effort to help.

More generally, Fred cared about people. People mattered to him, I think, more than ideas or arguments or academic projects—and much more than achievements, honors, or material benefits.

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Fred was a good friend to me. Although we overlapped in law school, I never met him then: he spent much of his spare time in the legal clinic and the courts, it seems, helping needy folks, while I was more engaged with a different set of courts—the moot and basketball courts. So when I moved to San Diego eight years ago, I hardly knew Fred at all. And we had lots of differences. Fred had an east coast and urban upbringing; I was from a small town in Idaho. Fred was politically liberal; I wasn't. Fred was Jewish; I was Christian. Nonetheless, almost immediately, Fred became my friend, introducing himself and then stopping by my office nearly every working day over the next seven years to ask how I was doing. And we found that we had things in common: an interest in the Padres and the Chargers, and mutual reminiscences about interesting people and quirky professors from our law school days, although I think Fred remembered those days more fondly than I did. For the better part of a year, we had in common an often vexing dean search, in which Fred was an indispensable support.

Perhaps most importantly, for both of us our families were the most important thing to us. Fred talked often about Sharon and even more often about Blake and Eric. He worried constantly about whether Blake and Eric would have good, rewarding lives—broad lives, not lives narrowly concerned with self and personal success. I recall once, well before he was diagnosed with cancer, when Fred waved dismissively at a pile of academic journals and reprints. “None of that really matters,” he said. “What matters is your family.”

These two qualities—his honesty and his caring about people—did not always sit comfortably together. His honesty kept Fred from being a warm, sunny, always affirming, quickly forgiving type of person. He had high expectations for himself and others, and if someone breached an obligation or committed an offense, Fred was not one who could pretend otherwise. He could be severe in his judgments. Nothing distressed Fred more than what he saw as failures of honesty or friendship or decency among his colleagues.

I expect that his family sometimes felt the force of Fred's high expectations and of his honest, severe judgments. So did his colleagues. I am sure, however, that his occasional severity reflected no lack of caring or compassion, but rather the deep concern he had for others.

The last time I saw Fred, in his home, Fred wasn't feeling well, to put it mildly, and he didn't anticipate that he had long to live. Even so, he was thoroughly interested in his colleagues, his family, his country—and, of course, the Chargers. In a quiet voice, he expressed appreciation for the support of Sharon and his boys during his ordeal. He said his

main regret was that he hadn't spent enough time with them, enjoying their company. Fred also mentioned with obvious appreciation a large favor that a couple of colleagues had recently done for him: helping to complete an article he'd promised to do but that, given his condition, he hadn't been able to finish. Fred had had a disagreement earlier with one of these colleagues, and he said it was good to be on friendly terms again. I recall thinking of the Psalm, which certainly would not always have applied easily to Fred but seemed to fit on this occasion: "[H]ow good and how pleasant it is for brethren to dwell together in unity!"¹

I understand that the Professional Responsibility Section of the American Association of Law Schools may be setting up a prize in honor of Fred, to be given each year to the author of a piece of outstanding scholarship in the field. I hope that happens; Fred certainly deserves the honor and recognition. For myself, though, I won't remember him mainly as a superb scholar. Instead, I'll remember him as one of the most decent, honest, occasionally cantankerous but consistently and unostentatiously caring people I've ever had the privilege to know.

1. Psalm 133:1 (King James) (italics omitted).

